

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on January 26, 1999 at 3:00 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Chris Christiaens (D)
Sen. Dorothy Eck (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Jon Tester (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jodi Pauley, Committee Secretary
Mary Vandenbosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 214, 1/21/1999; SB 225,
1/21/1999; SB 226, 1/21/1999
Executive Action: SB 180; SB 207

HEARING ON SB 225

Sponsor: SEN. JOHN HERTEL, SD 47, Moore

Proponents:

Bill Kennedy, Yellowstone Co. Commissioner

Gordon Morris, MACo

Eric Griffin, Public Works Director for Lewis and Clark Co.

Opponents: None

Opening Statement by Sponsor:

SEN. JOHN HERTEL, SD 47, Moore, said this allows county commissioners to upgrade rural improvement districts. It is an expansion to what is already in current statutes. He read lines 23-30 of the bill. He said in section 2 there are five sections that are being repealed as they are in other areas of the statutes.

Proponents' Testimony:

Bill Kennedy, Yellowstone Co. Commissioner, stated this bill is opening up the opportunity to create Rural Special Improvement Districts (RSID). If a county has a county road where people live, they may petition for an RSID for maintenance. If it is not a county road, they first must bring it up to county road standards and then form a homeowners association or collect money on their own. The problem is there is always a couple of people who do not want to put money forth to have their road fixed. One of the ways to avoid this is not to bring a public road up to county standards and let the RSID board come together and figure out what type of maintenance they want on their road. When they decide what they want to do and how much to assess, they take it to the County Board of Commissioners to come back with that RSID every year and levy maintenance fees. This gives them the opportunity to widen the RSID. He said trying to maintain potholes by Custer, Montana and then going back to Laurel in the same day is difficult. The only way to maintain roads is to give the County Commissioners the authority to create RSID's to collect dollars.

Gordon Morris, MACo, passed out a resolution from MACo.

EXHIBIT (los20a01)

Eric Griffin, Public Works Director for Lewis and Clark Co., said he manages 45 RSID's within Lewis and Clark Co. and this bill would help increase services to the taxpayers.

Opponents' Testimony: None

SEN. ECK took over the chair.

Questions from Committee Members and Responses:

SEN. DON HARGROVE asked if there is some mechanism to avoid getting into an abandoned road that nobody would want to fix.

Gordon Morris said the abandoned provisions are in another statute. There is no connection between an RSID and an abandoned road.

SEN. JON TESTER asked about the 3rd whereas from MACo. **EXHIBIT(1)** He asked does this mean it will not take the majority of the land owners to form the RSID? **Bill Kennedy** said under the current statutes it takes 51 percent to form an RSID. If a land owner has a substantial amount of land, then he/she would get a weighted vote for the RSID.

SEN. TESTER asked if the purpose of this bill is to make it easier to ask the county commissioners to do construction. **Bill Kennedy** said what they have in the county road systems today is a maintenance RSID on the road only if it is a county road. Then the people can petition to form an RSID for that road. If there are roads that are not county roads they cannot form an RSID on that road even if the public uses it. It first would have to be brought up to county standard. This bill is only trying to simplify the system. He said in section 2 it clarifies if a land owner does not directly benefit from the road they do not have to pay for that RSID.

SEN. BILL GLASER said this bill talks about assessing the owners and was this bill written before CI-75 took place. He said **SB 228** addresses this part of the statute. If they try to create an RSID and then it goes to a tax vote, and it fails then they cannot create an RSID. **Bill Kennedy** said this was written before CI-75 but an RSID can be formed without a vote of the people but they can't levy any taxes unless it is voted on.

SEN. GLASER said a county can set up an RSID, but not without revenue and this has to be voted upon. **Bill Kennedy** said currently if an RSID passes then the county commissioners determine what to levy and there are some RSID's that have no assessments. If there was a vote to levy taxes and it failed, the RSID stays there and they can try for another vote later.

{Tape : 1; Side : A; Approx. Time Counter : 3:30 p.m.}

SEN. DUANE GRIMES asked if they are forcing county commissioners to adopt RSID's that they may not feel is in the best interest of the county. **Bill Kennedy** said one of the problems the county goes

through is having enough funding to maintain roads. This is why they have the word "may" instead of "shall" so they may look at an RSID and either accept or turn it down.

SEN. GRIMES asked if an owner had a great deal of property along a road and there was a subdivision at the end of the road, is the property owner excluded even though he lives there? **Bill Kennedy** said the one area they have to look at is if it is a county or public road. He said if it is a long road there will probably not be enough people in that subdivision to create enough revenue to take that road in as a county road.

ACTING CHAIRMAN ECK asked if there is any protest provision in this bill. **Bill Kennedy** used the example in Yellowstone Co. that if there is a petition for an RSID there has to be 60 percent in favor of an RSID.

ACTING CHAIRMAN ECK asked where is this found now in the current statutes? **Mary Vandenbosch** said the protest provision is 7-12-2102. **Gordon Morris** explained the statute more. He said the commissioners do have the authority to go ahead and adopt the resolution and then the protest process follows.

ACTING CHAIRMAN ECK asked about the repealers in the bill. **Gordon Morris** said what they are repealing is part 29 of the statute dealing with the Rural Improvement District. This bill is narrowing down the benefitted property relative to agriculture.

{Tape : 1; Side : A; Approx. Time Counter : 3:40 p.m.}

Closing by Sponsor:

SEN. HERTEL said this is a good opportunity for county commissioners to improve the RSID's and save in the administrative area.

HEARING ON SB 226

Sponsor: SEN. JOHN HERTEL, SD 47, Moore

Proponents:

Bill Kennedy, Yellowstone Co. Commissioner
Gordon Morris, MACo

Opponents: None

Opening Statement by Sponsor:

SEN. JOHN HERTEL, SD 47, Moore, said this bill clarifies county road statutes. It puts in more clarity for the establishment and maintenance of county roads within the county. Also it helps when two counties are working together.

Proponents' Testimony:

Bill Kennedy, Yellowstone Co. Commissioner, said they levy taxes for the maintenance of roads, bridges and joint projects between counties. He said in Yellowstone County they have 15 mill levies for county roads at this time and last year they tried for 20 but were rejected by the voters.

Gordon Morris, MACo, passed out a resolution from MACo.

EXHIBIT(los20a02)

{Tape : 1; Side : B; Approx. Time Counter : 3:47 p.m.}

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. TESTER asked how roads and bridges get taken care of now and what will this bill do that is not already being done. **Gordon Morris** said the levy of taxes is authorized under this particular section.

Closing by Sponsor:

SEN. HERTEL said this bill adds clarity to the levying process.

HEARING ON SB 214

Sponsor: **SEN. SUE BARTLETT, SD 27, Helena**

Proponents:

Wayde Cooperider, MT Sheriffs and Peace Officers Assoc.
Paulette DeHart, MT Co. Treasurer's Assoc.

Opponents: None

Opening Statement by Sponsor:

SEN. SUE BARTLETT, SD 27, Helena, said this bill addresses the collection of delinquent personal property taxes. This bill, if

approved, would use the regular fee schedule of the sheriff's fee to be charged when the sheriff is levying or selling property to recover delinquent personal property taxes. The sheriff's fees could be charged whether or not the property went to sale. She said right now the property must be levied and sold before the sheriff receives any fees. If the property never goes to sale he cannot collect any money for what has been done. She explained section 2 of the bill. Section 3 clarifies the notice that the sheriff must give of the sale of property. She handed out copies of the statutes that are referenced in the bill.

EXHIBIT (los20a03)

Proponents' Testimony:

Wayde Cooperider, MT Sheriffs and Peace Officers Assoc., said current law only allows a \$25 fee when property is actually seized and offered for sale or sold. More times than not the sheriff does not get paid for these services because there is no sale. Passage of this bill would allow sheriffs to charge normal fees regardless of the method used to satisfy the delinquency.

EXHIBIT (los20a04)

{Tape : 1; Side : B; Approx. Time Counter : 3:55 p.m.}

Paulette DeHart, MT Co. Treasurer's Assoc., rose in support of SB 214.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. GRIMES said if he had some joint property and he paid for a neighbor's delinquent property taxes does he have the first right of refusal? If it goes to sale does this bill change any of that?

Paulette DeHart said what they are dealing with in this bill is personal property not real estate.

SEN. CHRIS CHRISTIAENS asked what kind of costs are born by the county that are not recovered now that could be recovered by the \$25 fee. **Ms. DeHart** said there is a lot of postage, generation of notices, writs, staff costs, etc. **Mr. Cooperider** said one half to one-third of his time and wages are associated with the collection of delinquent taxes. One hour of his time is invested per delinquent tax writ received. He said by being allowed to charge these fees it would help offset the cost.

SEN. BOHLINGER asked how big of a problem is this in other counties. **Cort Harrington, MT County Treasurer's Assoc.,** said this is a statewide problem.

SEN. DON HARGROVE asked will associated costs be assessed against the delinquent whether or not there is a sale. **Mr. Harrington** said anyone who is attempting to collect delinquent taxes can go to the lending institution and try to get money. If there is no seizure and sale of personal property, under current statute, they are not entitled to the fees. It is usually more convenient for the taxpayer to have money taken out of his bank account rather than taking personal property and holding a sheriff's sale.

SEN. HARGROVE asked if the fees would come out of the bank account and are they making a distinction between real and personal property. **Mr. Harrington** said that was correct.

Closing by Sponsor:

SEN. BARTLETT said the statutes already provide in the case of real property delinquencies for the counties to recover their costs. Delinquencies in the personal property tax area have a very limited cost recovery mechanism and this bill addresses that. When counties can't collect on delinquencies all of the non-delinquent taxpayers are subsidizing the work that goes into collecting from delinquent taxpayers. CI-75 does not apply in relation to the sheriff's fees. But if a county sets the fees different than \$25 then it has to be in accordance with CI-75.

{Tape : 1; Side : B; Approx. Time Counter : 4:09 p.m.}

CHAIRMAN SPRAGUE took over the chair.

EXECUTIVE ACTION ON SB 180

Motion/Vote: **SEN. ECK** moved that **AMENDMENTS TO SB 180 BE ADOPTED. EXHIBIT(los20a05)** Motion carried unanimously.

Motion/Vote: **SEN. LYNCH** moved that **SB 180 DO PASS AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 207

SEN. CHRISTIAENS asked if the previous amendments stay on the bill. **EXHIBIT(los20a06)** **Mary Vandebosch** said that was correct.

Motion: **SEN. CHRISTIAENS** moved that **AMENDMENTS FOR SB 207 BE ADOPTED. EXHIBIT(los20a07)**

Discussion:

SEN. LYNCH asked by putting in these amendments will the former amendments be struck and only education be in there? **Mary Vandenbosch** said this amendment is designed to fit with the first amendment.

SEN. LYNCH discussed the amendments and said he is not in favor of them. **EXHIBIT (7)**

SEN. CHRISTIAENS said the reason for this bill and amendment is to allow the donation to be for educational purposes.

CHAIRMAN SPRAGUE asked if it was constitutional to include religion. **Mary Vandenbosch** said it is up to the courts to decide that but it does raise constitutional issues.

SEN. LYNCH said if there is a parcel of land that is not being used there are several instances in which these parcels have been sold to non-profits for whatever use. The amendment is fine that included a detention center, but to strike everything else is an error.

SEN. GRIMES said he added the first amendment because of the Boulder River School. **EXHIBIT (6)** But removing "scientific" and "religious" doesn't make the first amendment fit very well.

SEN. HARGROVE resopned when they start defining things, they get in trouble. He said he would feel more comfortable to leave it as a non-profit organization.

SEN. MILLER said it is not the institution that is in question constitutionally, but the purpose of that institution. These things are happening right now in the counties and he doesn't want to stop that.

SEN. HARGROVE asked to have article 10 of the Constitution read. **Mary Vandenbosch** read article 10 and article 2, section 5 of the Montana Constitution.

SEN. LYNCH said if they put in a severability clause, this will take care of these problems.

Vote: Motion **failed unanimously.**

Motion/Vote: **SEN. LYNCH** moved **THE AMENDMENT OF A SEVERABILITY CLAUSE TO BE ADOPTED.** Motion carried unanimously.

Motion/Vote: SEN. MILLER moved that **SB 207 DO PASS AS AMENDED.**
Motion carried unanimously.

ADJOURNMENT

Adjournment: 4:25 P.M.

SEN. MIKE SPRAGUE, Chairman

JODI PAULEY, Secretary

MS/JP

EXHIBIT (los20aad)